

109TH CONGRESS  
2D SESSION

# H. R. 5389

To establish improved mandatory standards to protect miners during emergencies, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

MAY 16, 2006

Mr. GEORGE MILLER of California (for himself, Mr. RAHALL, Mr. OWENS, Mr. CHANDLER, Mr. HOLT, Mr. DAVIS of Alabama, Mr. MOLLOHAN, Mr. BROWN of Ohio, Mr. COSTELLO, and Mr. MURTHA) introduced the following bill; which was referred to the Committee on Education and the Workforce

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## A BILL

To establish improved mandatory standards to protect miners during emergencies, and for other purposes.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

3       **SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “Protecting America’s  
5       Miners Act”.

6       **SEC. 2. SENSE OF CONGRESS.**

7       It is the sense of Congress that, because the Sec-  
8       retary of Labor has failed in recent years to adequately  
9       fulfill the Secretary’s obligations under the Federal Mine

1 Safety and Health Act of 1977 (30 U.S.C. 801 et seq.)  
2 to help miners survive underground mining emergencies  
3 and has failed to adequately prepare for the significant  
4 losses to a highly-trained Mine Safety and Health Admin-  
5 istration inspector workforce that are pending, Congres-  
6 sional intervention is needed.

7 **SEC. 3. DEFINITIONS.**

8 For purposes of this Act, any term used in this Act  
9 that is defined in section 3 of the Federal Mine Safety  
10 and Health Act of 1977 (30 U.S.C. 802) shall have the  
11 meaning given the term in such section.

12 **SEC. 4. IMPROVED ESCAPE AND REFUGE REQUIREMENTS**  
13 **TO HELP PROTECT MINERS IN THE EVENT OF**  
14 **AN EMERGENCY.**

15 Section 101 of the Federal Mine Safety and Health  
16 Act of 1977 (30 U.S.C. 811) is amended by adding at  
17 the end the following:

18 “(f) IMPROVED MANDATORY SAFETY STANDARDS TO  
19 PROTECT MINERS IN THE EVENT OF AN EMERGENCY.—

20 “(1) IN GENERAL.—Notwithstanding any other  
21 provision of this section regarding the promulgation  
22 of mandatory health or safety standards, and in ad-  
23 dition to the requirements of any mandatory health  
24 or safety standards promulgated under this Act, the

1 following shall be mandatory safety standards that  
2 apply to all underground areas of coal mines:

3 “(A) EMERGENCY DETECTION, WARNING,  
4 AND MESSAGING SYSTEMS.—Not later than 180  
5 days after the date of enactment of the Pro-  
6 tecting America’s Miners Act, an operator of an  
7 underground coal mine shall—

8 “(i) install atmospheric detection and  
9 warning systems, in all underground areas  
10 where miners normally work and travel,  
11 that provide real-time information regard-  
12 ing methane levels, carbon monoxide levels,  
13 oxygen levels, air flow, and temperature  
14 and that can, to the maximum extent pos-  
15 sible, withstand explosions and fires;

16 “(ii) provide each miner working in  
17 any underground area of the mine with a  
18 device that is designed to enable the oper-  
19 ator to send a message to the miner pro-  
20 viding instructions during an emergency;  
21 and

22 “(iii) as soon as the National Institute  
23 for Occupational Safety and Health cer-  
24 tifies that portable devices providing 2-way  
25 communications between the surface and

1 underground are available and are capable  
2 of operation during some mining emer-  
3 gencies, provide each miner working in any  
4 underground area of the mine with such a  
5 device, and, in addition, continue to pro-  
6 vide the devices required under clause (ii)  
7 until such time as the 2-way communica-  
8 tions devices required by this paragraph  
9 are certified by the National Institute for  
10 Occupational Safety and Health to be at  
11 least as effective as the other devices in all  
12 mining emergency circumstances.

13 The Secretary shall establish procedures for  
14 regularly consulting with other Federal, State,  
15 and foreign agencies with respect to new com-  
16 munications technologies for use in accordance  
17 with clauses (ii) and (iii) and for expediting the  
18 approval of such new technologies.

19 “(B) FACILITATING EMERGENCY ES-  
20 CAPE.—

21 “(i) EMERGENCY CACHES.—Not later  
22 than 30 days after the date of enactment  
23 of the Protecting America’s Miners Act,  
24 each operator of an underground coal mine  
25 shall provide emergency underground

1 caches of air and self-contained breathing  
2 equipment, in amounts sufficient to enable  
3 all miners working anywhere in a par-  
4 ticular mine to escape from the mine in an  
5 emergency in which any direct inhalation  
6 of the mine atmosphere by a miner would  
7 likely produce adverse health effects. The  
8 caches shall be located throughout the  
9 mine, including in escapeways. In order to  
10 determine the specific location of each  
11 cache in an escapeway, an operator shall  
12 develop a risk assessment plan that cal-  
13 culates the necessary amount and place-  
14 ment of the caches based on the travel  
15 time by foot from the deepest work area in  
16 the mine to the surface, taking into ac-  
17 count the impact of emergency conditions  
18 and the demographics of the miners in the  
19 particular mine, except that such caches  
20 shall not be spaced further apart than the  
21 distance an average miner can walk in 30  
22 minutes. Each cache located in an  
23 escapeway shall be marked with flame re-  
24 tardant lifeline cords or similar devices,  
25 and reflective material shall be placed at

25-foot intervals along the route to the cache to indicate the cache's location.

“(ii) ADDITIONAL EMERGENCY CACHES.—Until the date that the requirement to provide refuges under subparagraph (C) is effective, each operator of an underground coal mine shall maintain, in addition to the caches described in clause (i), emergency supplies of air and self-contained breathing equipment for miners awaiting rescue due to an emergency within the mine. Such equipment shall be sufficient to supply the highest number of miners expected to be in the working areas of the mine for not less than 5 days.

“(iii) SELF-RESCUE DEVICE APPROVAL AND INSPECTION PROCESS.—

“(I) EXPEDITED APPROVAL.—

The Secretary shall expedite the process for approving any self-rescue device that permits the replenishment of oxygen without requiring the device user to remove the device.

“(II) INSPECTION PROGRAM.—

The Secretary shall—

“(aa) establish a program to randomly check samples of any self-rescue devices used in an underground coal mine on a regular basis, in order to ensure that the self-rescue devices in the coal mine inventories are working in accordance with the approval criteria for such devices;

“(bb) require a manufacturer of a self-rescue device to contact the Secretary immediately upon notification of any potential problem with such device; and

“(cc) notify immediately all operators of underground coal mines if the Secretary detects or is advised of any problems with the self-rescue devices.

“(iv) SELF-RESCUE DEVICE MAINTENANCE SCHEDULE.—Not later than 30 days after the date of enactment of the Protecting America’s Miners Act, each operator of an underground coal mine shall

1 develop and implement a maintenance  
2 schedule for—

3 “(I) checking the reliability of  
4 self-rescue devices;

5 “(II) retiring older self-rescue de-  
6 vices first; and

7 “(III) introducing new self-rescue  
8 device technology, such as devices  
9 with interchangeable air or oxygen  
10 cylinders that do not require doffing  
11 to replenish airflow and devices with  
12 air or oxygen supplies of more than 1  
13 hour, as such devices are approved by  
14 the Secretary and become available.

15 “(v) SELF-RESCUE DEVICE TRAIN-  
16 ING.—Not later than 30 days after the  
17 date of enactment of the Protecting Amer-  
18 ica’s Miners Act, each operator of an un-  
19 derground coal mine shall implement a  
20 program to ensure that all miners are  
21 trained in the proper procedures for don-  
22 ning self-rescue devices, switching from 1  
23 self-rescue device to another, and ensuring  
24 a proper fit of the self-rescue devices.



1                   “(vi)     FLAME-RETARDANT     LIFE-  
2                   LINES.—Whenever required by law to in-  
3                   stall lifelines, each operator of an under-  
4                   ground coal mine shall use flame-retardant  
5                   lifelines exclusively.

6                   “(C) REFUGES.—Not later than 1 year  
7                   after the date of enactment of the Protecting  
8                   America’s Miners Act, each operator of an un-  
9                   derground coal mine shall establish or provide  
10                  refuges underground in sufficient locations to  
11                  ensure that all miners working at any location  
12                  in a mine can reach a refuge that can accom-  
13                  modate such miner within 15 minutes, should  
14                  such miner determine that escape from the  
15                  mine is not the best course of action to take  
16                  during an emergency and without regard to the  
17                  length of time it might take to escape the mine.  
18                  Each such refuge shall be a stand-alone refuge.  
19                  Each operator shall ensure that the locations of  
20                  the refuges are marked and kept current on  
21                  mine maps, and that mine rescue teams for the  
22                  mine are regularly provided with information  
23                  about the design and features of the refuges.  
24                  Each such refuge shall be—

1 “(i) equipped with adequate air, food,  
2 and water to accommodate the calculated  
3 number of miners for a period of not less  
4 than 5 days;

5 “(ii) constructed or designed in such a  
6 way as to seal out toxic mine atmospheres  
7 and to eliminate the buildup of toxic  
8 atmospheres or other hazardous conditions  
9 within the refuge; and

10 “(iii) equipped with telephone lines, or  
11 equivalent 2-way communications to the  
12 surface.

13 “(D) TRACKING DEVICES TO FACILITATE  
14 RESCUE.—Not later than 180 days after the  
15 date of enactment of the Protecting America’s  
16 Miners Act, each operator of an underground  
17 coal mine shall provide each miner working in  
18 an underground location with an electronic  
19 tracking device that permits the continuous  
20 tracking of the location of the miner within the  
21 mine, for the purpose of facilitating the miner’s  
22 rescue in an emergency.

23 “(2) MODIFICATION AND SUPERSESSON.—The  
24 provisions of this subsection may be superseded in  
25 whole or in part by improved mandatory safety

1 standards promulgated by the Secretary under this  
2 section, and may be modified with respect to a par-  
3 ticular mine only in accordance with the require-  
4 ments and procedure described in subsection (c).

5 “(3) IMMINENT DANGER.—Any violation of a  
6 mandatory safety standard under this subsection, or  
7 a mandatory safety standard promulgated by the  
8 Secretary that supercedes a standard under this  
9 subsection, shall be deemed to create an imminent  
10 danger to miners for the purposes of section 107.”.

11 **SEC. 5. FACILITATING THE PROMPT INITIATION OF RES-**  
12 **CUE AND MINE RECOVERY EFFORTS.**

13 (a) EMERGENCY CALL CENTER.—Not later than 30  
14 days after the date of enactment of this Act, the Secretary  
15 shall establish, within the Mine Safety and Health Admin-  
16 istration, a central communications emergency call center  
17 for all coal or other mine operations that shall be staffed  
18 and operated 24 hours a day, 7 days a week, by 1 or more  
19 employees of the Mine Safety and Health Administration.  
20 All calls placed to the emergency call center shall be an-  
21 swered by an individual with adequate experience and  
22 training to handle emergency mine situations. A single na-  
23 tional phone number shall be provided for this purpose  
24 and the Secretary shall ensure that all miners and mine

1 operators are issued laminated cards with emergency call  
2 center information.

3 (b) CONTACT INFORMATION.—The Secretary shall  
4 provide the emergency call center with a contact list, up-  
5 dated not less often than quarterly, that contains—

6 (1) the contact phone numbers, including the  
7 home phone numbers, for the members of each mine  
8 rescue team responsible for each coal or other mine;

9 (2) the phone numbers for the local emergency  
10 and rescue services unit that is located nearest to  
11 each mine;

12 (3) the contact phone numbers, including the  
13 home phone number, for the operator of each mine;

14 (4) the contact phone numbers, including the  
15 home phone numbers, for the national and district  
16 officials of the Mine Safety and Health Administra-  
17 tion;

18 (5) the contact phone numbers, including the  
19 home phone numbers, for the State officials in each  
20 State who should be contacted in the event of a mine  
21 emergency in such State; and

22 (6) the contact phone numbers, including the  
23 home phone number, for the authorized representa-  
24 tive of the miners at each mine.

1       (c) MINE LOCATION MAPS.—The Secretary shall es-  
2     tablish, maintain, and keep current on the Department of  
3     Labor’s website a detailed map or set of maps showing  
4     the exact geographic location of each operating or aban-  
5     doned mine in the United States. Such map or maps  
6     shall—

7             (1) be presented, through links within the  
8     website, in such a way as to make the location of a  
9     mine instantly available to the emergency personnel  
10    responding to the mine;

11            (2) be available to members of the public; and

12            (3) allow a user to find the geographic location  
13    of a particular mine, or the geographic locations of  
14    all mines of a particular type in a county, congres-  
15    sional district, State, or other commonly used geo-  
16    graphic region.

17       (d) REQUIRED NOTIFICATION OF EMERGENCIES AND  
18     SERIOUS INCIDENTS.—

19            (1) REPORTING.—An operator of a coal or  
20    other mine shall report any emergency or serious  
21    mine incident to the emergency call center not later  
22    than 15 minutes after becoming aware of any such  
23    emergency or serious mine incident, regardless of  
24    whether miners remain at risk.

1           (2) EMERGENCIES OR SERIOUS INCIDENTS.—

2           For the purposes of this subsection, an emergency or  
3           serious mine incident includes—

4                   (A) a mine fire;

5                   (B) a roof fall, unplanned inundation, col-  
6           lapse, or unplanned explosion;

7                   (C) a sudden change in mine atmospheric  
8           conditions;

9                   (D) a rib fall that impairs ventilation or  
10          impedes passage;

11                  (E) a coal or rock outburst that causes the  
12          withdrawal of miners;

13                  (F) the failure of an impoundment;

14                  (G) damage to hoisting equipment in a  
15          shaft or slope that endangers an individual;

16                  (H) any incident that leads to the death,  
17          serious injury with a reasonable potential to  
18          cause death, or entrapment, of a miner; and

19                  (I) any other emergency or incident, as de-  
20          termined in regulations promulgated by the  
21          Secretary, that needs to be examined in order  
22          to determine if the working conditions in the  
23          mine are safe.

24          (e) ENHANCING THE AVAILABILITY AND CAPABILI-  
25          TIES OF MINE RESCUE TEAMS.—

1           (1) COAL MINE RESCUE TEAM REQUIRE-  
2       MENTS.—

3           (A) OPERATORS WITH LESS THAN 36 EM-  
4       PLOYEES.—Not later than 30 days after the  
5       date of enactment of this Act, an operator of an  
6       underground coal mine for which the total num-  
7       ber of employees employed in the underground  
8       areas of the mine, at any time during the pre-  
9       vious year, did not exceed 35 employees, shall  
10      ensure that—

11           (i) each mine rescue team that is re-  
12      quired under section 115(e) of the Federal  
13      Mine Safety and Health Act of 1977 (30  
14      U.S.C. 825(e)), and the regulations pro-  
15      mulgated pursuant to such section, in-  
16      cludes miners who are employed by the op-  
17      erator and who are familiar with the work-  
18      ings of such mine;

19           (ii) all members of the mine rescue  
20      team can reach the mine in not more than  
21      1 hour; and

22           (iii) each mine rescue team conducts  
23      at least 2 mine rescue drills each year in  
24      the mine for which the rescue team has  
25      mine rescue responsibilities.

1 (B) OPERATORS WITH 36 OR MORE EM-  
2 PLOYEES.—Not later than 30 days after the  
3 date of enactment of this Act, an operator of an  
4 underground coal mine that employed, at any  
5 time during the previous year, a total of 36 or  
6 more employees for work in the underground  
7 areas of the mine shall ensure that—

8 (i) each mine rescue team that is re-  
9 quired under section 115(e) of the Federal  
10 Mine Safety and Health Act of 1977 (30  
11 U.S.C. 825(e)), and the regulations pro-  
12 mulgated pursuant to such section, con-  
13 sists exclusively of miners who are em-  
14 ployed by such operator and who are famil-  
15 iar with the workings of such mine; and

16 (ii) all members of the mine rescue  
17 team are available for immediate deploy-  
18 ment.

19 (C) ADDITIONAL TEAMS.—Nothing in this  
20 paragraph shall be construed to preclude an op-  
21 erator of a coal mine from contracting for the  
22 services of other mine rescue teams in addition  
23 to the mine rescue teams required by section  
24 115(e) of the Federal Mine Safety and Health  
25 Act of 1977 (30 U.S.C. 825(e)).



1 (2) MINE RESCUE TEAM REGULATIONS.—

2 (A) INITIATION OF RULEMAKING.—Not  
3 later than 30 days after the date of enactment  
4 of this Act, the Secretary shall initiate rule-  
5 making activity to revise the Secretary's regula-  
6 tions under section 115(e) of the Federal Mine  
7 Safety and Health Act of 1977 (30 U.S.C.  
8 825(e)) regarding mine rescue teams, and shall  
9 in this regard directly contact and solicit the  
10 participation of—

11 (i) all existing mine rescue teams;

12 (ii) organizations representing other  
13 types of rescue workers (such as fire-  
14 fighters);

15 (iii) State and local emergency au-  
16 thorities; and

17 (iv) others whom the Secretary deter-  
18 mines may have information relevant to  
19 this rulemaking.

20 (B) INTERIM FINAL RULES.—The Sec-  
21 retary shall issue the regulations revised under  
22 subparagraph (A) as interim final rules not  
23 later than 270 days after the date of enactment  
24 of this Act.

1 (C) CONTENT OF REVISED REGULA-  
2 TIONS.—In revising the regulations under sub-  
3 paragraph (A), the Secretary shall address, at  
4 a minimum—

5 (i) the training and qualifications for  
6 mine rescue team members;

7 (ii) the equipment and technology  
8 used in mine rescue;

9 (iii) the structure and organization of  
10 mine rescue teams;

11 (iv) the identification of qualified sur-  
12 face personnel to communicate with mine  
13 rescue teams during rescue efforts;

14 (v) the provision of uniform creden-  
15 tials to mine rescue team members, sup-  
16 port personnel, or vehicles for immediate  
17 access to any mine site;

18 (vi) the plans required at each mine to  
19 ensure coordination with local emergency  
20 response personnel and to ensure that such  
21 personnel receive adequate training in  
22 mine rescue needs and in coordinating with  
23 the mine rescue teams at each mine; and

24 (vii) requirements to ensure that oper-  
25 ators are prepared to facilitate the work of

mine rescue teams during an emergency  
by—

(I) storing necessary equipment  
in locations readily accessible to mine  
rescue teams;

(II) providing mine rescue teams  
with a parking and staging area ade-  
quate for their needs;

(III) identifying a space appro-  
priate for coordinating emergency  
communications with the mine rescue  
team; and

(IV) identifying and maintaining  
separate spaces for family members,  
community members, and press to as-  
semble during an emergency so as to  
facilitate communications with these  
groups while ensuring the efforts of  
the mine rescue teams are not hin-  
dered.

**SEC. 6. ENHANCING THE INVESTIGATION OF MINE ACCI-  
DENTS.**

(a) INVESTIGATIONS BY THE SECRETARY.—Not later  
than 30 days after the date of enactment of this Act, the  
Secretary shall initiate rulemaking activity to establish

1 regulations regarding the investigation of accidents, and  
2 shall in this regard directly contact and solicit the partici-  
3 pation of—

4 (1) individuals identified by the Secretary as  
5 family members of miners who perished in mining  
6 accidents of any type during the preceding 10-year  
7 period;

8 (2) organizations representing miners;

9 (3) mine rescue teams;

10 (4) Federal, State, and local investigation and  
11 prosecutorial authorities; and

12 (5) others whom the Secretary determines may  
13 have information relevant to this rulemaking.

14 (b) INTERIM FINAL RULES.—The Secretary shall  
15 issue the regulations revised under subsection (a) as in-  
16 terim final rules not later than 270 days after the date  
17 of enactment of this Act.

18 (c) CONTENT OF REVISED REGULATIONS.—In revis-  
19 ing the regulations under subsection (a), the Secretary  
20 shall require that—

21 (1) public hearings are held in connection with  
22 any fatal accident and in connection with an acci-  
23 dent that could have resulted in multiple fatalities;

24 (2) the recommendations of an investigation of  
25 an accident undertaken in accordance with sub-

1 section (a) are made public at such time as the rec-  
2 ommendations are provided to the Secretary;

3 (3) the Secretary designate an employee as a  
4 family advocate to act as the liaison between the  
5 Secretary and the family of any miner killed or in-  
6 jured in any accident that is the subject of an inves-  
7 tigation;

8 (4) the family of a miner killed or injured in an  
9 accident that is the subject of an investigation is in-  
10 cluded in all phases of the investigation (including  
11 witness interviews) in which a representative of the  
12 operator or the miners is included; and

13 (5) the Secretary is the coordinator of rescue  
14 operations and communications with the public and  
15 families during any investigation of an accident.

16 (d) INDEPENDENT INVESTIGATIONS.—After an acci-  
17 dent and upon the timely request of the authorized rep-  
18 resentative of the miners at a mine, or representatives of  
19 a majority of the families of the miners killed or who could  
20 have been killed in such accident, the Secretary shall con-  
21 tract with the Chemical Safety and Hazard Investigation  
22 Board or other appropriate independent Federal investiga-  
23 tive authority to conduct an independent investigation of  
24 the accident and provide recommendations to the Sec-  
25 retary. Such investigation shall be in addition to any inves-

1 tigation conducted by the Secretary, and shall be con-  
2 ducted pursuant to whatever procedures such authority  
3 determines are appropriate for the investigation. The Sec-  
4 retary shall provide such authority with all information  
5 and expertise requested, and shall pay for such authority  
6 to conduct the authority's investigation, including the  
7 costs of obtaining the services of independent experts re-  
8 quired for any such investigation.

9 **SEC. 7. ENHANCING OPERATOR AND OWNER INCENTIVES**

10 **TO AVOID SERIOUS RISKS TO MINERS.**

11 (a) **PATTERN OF VIOLATIONS.—**

12 (1) **PROMPT IDENTIFICATION OF PATTERN.—**

13 Not later than 30 days after the date of enactment  
14 of this Act, the Secretary is directed to revise the  
15 regulations issued by the Secretary under section  
16 104(e) of the Federal Mine Safety and Health Act  
17 of 1977 (30 U.S.C. 814(e)) as in effect on the day  
18 before such date of enactment, so that the regula-  
19 tions provide that—

20 (A) when a potential pattern of violations  
21 is identified by any inspector or district man-  
22 ager of the Mine Safety and Health Adminis-  
23 tration, the operator of the coal or other mine  
24 and the authorized representative of miners for  
25 the mine shall be notified by the inspector or

1 district manager not later than 10 days after  
2 such identification; and

3 (B) after receiving the notification de-  
4 scribed in subparagraph (A), the appropriate  
5 Administrator of the Mine Safety and Health  
6 Administration shall promptly review any such  
7 potential pattern of violations and, not later  
8 than 45 days after receiving such notification,  
9 make a final decision as to whether a citation  
10 for a violation of section 104(e) of such Act  
11 should be issued.

12 (2) FINE FOR A PATTERN OF VIOLATIONS.—

13 Section 110 of the Federal Mine Safety and Health  
14 Act of 1977 (30 U.S.C. 820) is amended—

15 (A) by redesignating subsections (i)  
16 through (l) as subsections (k) through (n), re-  
17 spectively; and

18 (B) by inserting after subsection (h) the  
19 following:

20 “(i) PATTERNS OF VIOLATION.—

21 “(1) ADDITIONAL PENALTIES.—If the Sec-  
22 retary determines that a pattern of violations under  
23 section 104(e) exists, the Secretary shall assess a  
24 penalty, in addition to any other penalty authorized  
25 in this Act for a violation of such section, of not

1 more than \$1,000,000. All operators of the mine, in-  
2 cluding any corporate owners, shall be jointly and  
3 severally liable for such penalty. The amount of the  
4 assessment under this paragraph shall be designed  
5 to ensure a change in the future conduct of the op-  
6 erators and corporate owners of such mine with re-  
7 spect to mine safety and health, given the overall re-  
8 sources of such operators. Notwithstanding sub-  
9 section (k) or section 113, a penalty assessed by the  
10 Secretary under this paragraph may not be reduced  
11 by the Commission.

12 “(2) WITHDRAWAL OF WORKERS.—In addition  
13 to the authority to withdraw miners from an area of  
14 a coal or other mine pursuant to section 104(e), the  
15 Secretary shall withdraw all miners from the entire  
16 mine when any pattern of violations has been deter-  
17 mined to exist until such time as the Secretary cer-  
18 tifies that all identified violations have been cor-  
19 rected and the operator has agreed to abide by a  
20 written plan approved by the Mine Safety and  
21 Health Administration to ensure that such a pattern  
22 of conduct will not recur.”.

23 (b) FAILURE TO TIMELY PAY PENALTY ASSESS-  
24 MENTS.—Section 105(a) of the Federal Mine Safety and  
25 Health Act of 1977 (30 U.S.C. 815(a)) is amended by



1 striking the third sentence and inserting the following:  
2 “The operator has 30 days from the receipt of the notifica-  
3 tion of a citation issued by the Secretary, to notify the  
4 Secretary that the operator intends to contest the citation  
5 or proposed assessment of a penalty and to place in escrow  
6 the amount of the proposed assessment. If notification and  
7 proof of escrow is not provided to the Secretary, the cita-  
8 tion and the proposed assessment of penalty shall be  
9 deemed a final order of the Commission and not subject  
10 to review by any court or agency. It shall be a felony for  
11 any mine operator, including a corporate owner, of a coal  
12 or other mine to fail to timely pay any penalties assessed  
13 under this Act for which payment has been demanded.  
14 Such felony shall be punishable, for each operator, by a  
15 fine of not less than \$50,000 or by imprisonment for 1  
16 year.”.

17 (c) MAXIMUM AND MINIMUM PENALTIES.—Section  
18 110(a) of the Federal Mine Safety and Health Act of 1977  
19 (30 U.S.C. 820(a)) is amended by striking “more than  
20 \$50,000 for each such violation.” and inserting “less than  
21 \$500 or more than \$250,000 for each such violation, ex-  
22 cept that, in the case of a violation of a mandatory health  
23 or safety standard that could significantly and substan-  
24 tially contribute to the cause and effect of a coal or other  
25 mine health or safety hazard, the penalty shall not be less

1 than \$1,000 or more than \$500,000, for each such viola-  
 2 tion.”.

3 (d) PENALTY FOR LATE ACCIDENT NOTIFICATION.—  
 4 Section 110 of the Federal Mine Safety and Health Act  
 5 of 1977 (30 U.S.C. 820) is further amended by inserting  
 6 after subsection (i) (as inserted by subsection (a)(2)(B))  
 7 the following:

8 “(j) Any operator who fails to provide timely notifica-  
 9 tion of an accident as required under section 5(d)(1) of  
 10 the Protecting America’s Miners Act shall be subject to  
 11 a civil penalty of not more than \$100,000 and not less  
 12 than \$60,000.”.

13 (e) FACTORS IN ASSESSING PENALTIES.—Section  
 14 110(k) of the Federal Mine Safety and Health Act of 1977  
 15 (30 U.S.C. 820(k)) (as redesignated by subsection  
 16 (a)(2)(A)) is amended by striking “the appropriateness”  
 17 and all that follows through “the gravity” and inserting  
 18 “whether the operator was negligent, the gravity”.

19 **SEC. 8. ENHANCING THE WILLINGNESS OF MINERS AND**  
 20 **OTHERS TO REPORT SERIOUS PROBLEMS BE-**  
 21 **FORE ACCIDENTS OCCUR.**

22 (a) ESTABLISHMENT OF MINER OMBUDSMAN.—  
 23 There shall be established, within the Office of the Inspec-  
 24 tor General of the Department of Labor, the position of  
 25 Miner Ombudsman. The President, by and with the advice

1 and consent of the Senate, shall appoint an individual with  
2 expertise in mine safety and health to serve as the Miner  
3 Ombudsman.

4 (b) DUTIES.—The Miner Ombudsman shall—

5 (1) be responsible for establishing practices to  
6 ensure the confidentiality of the identity of miners,  
7 and the families or personal representatives of the  
8 miners, who contact mine operators, authorized rep-  
9 resentatives of the miners, the Mine Safety and  
10 Health Administration, the Department of Labor, or  
11 others with information about mining conditions  
12 that may threaten, or have recently threatened as of  
13 the time of the contact, miner safety or health, while  
14 ensuring that the Mine Safety and Health Adminis-  
15 tration has the information needed to promptly in-  
16 vestigate such complaints;

17 (2) establish a toll-free telephone number and  
18 appropriate Internet website to permit individuals to  
19 confidentially report possible mine mandatory health  
20 or safety standard violations or concerns;

21 (3) collect and forward information concerning  
22 possible mine safety or health violations or concerns  
23 to the appropriate officials of the Mine Safety and  
24 Health Administration for investigation;

1           (4) monitor the Secretary of Labor’s efforts to  
 2       protect miners who report that their rights under  
 3       section 105(c) of the Federal Mine Safety and  
 4       Health Act of 1977 (30 U.S.C. 815(c)) have been  
 5       violated, and report to the Congress any rec-  
 6       ommendations that would enhance such rights or  
 7       protections; and

8           (5) carry out public outreach and other activi-  
 9       ties to facilitate the transmission, to the Secretary of  
 10      Labor, of information that could avoid help avoid  
 11      mine accidents.

12 **SEC. 9. ENHANCING SPECIFIC PROTECTIONS FOR UNDER-**  
 13 **GROUND COAL MINES.**

14       (a) SPECIAL RULEMAKING.—Section 101 of the Fed-  
 15      eral Mine Safety and Health Act of 1977 (30 U.S.C. 811)  
 16      is further amended by adding at the end the following:

17       “(g) SPECIAL RULEMAKING PROCEDURE FOR CER-  
 18      TAIN SAFETY STANDARDS.—

19           “(1) CONVEYOR BELTS.—

20           “(A) RULEMAKING AND INTERIM STAND-  
 21      ARDS.—Not later than 30 days after the date  
 22      of enactment of the Protecting America’s Min-  
 23      ers Act, the Secretary shall initiate rulemaking  
 24      activity to develop mandatory safety standards  
 25      that implement the recommendations of the Na-

1           tional Institute for Occupational Safety and  
2           Health that conveyor belts used in underground  
3           coal mines be designed to minimize flamma-  
4           bility. Such revised mandatory safety standards  
5           shall be issued as interim standards not later  
6           than 270 days after the date of enactment of  
7           such Act.

8           “(B) APPLICATION OF PRIOR RULE.—Until  
9           such time as the interim standards described in  
10          subparagraph (A) are issued and new require-  
11          ments on belt flammability are placed in effect,  
12          the amendments made by the final rule pub-  
13          lished on April 2, 2004, in the Federal Register  
14          (69 Fed. Reg. 17480) to the mandatory safety  
15          standard in section 75.350 of title 30, Code of  
16          Federal Regulations, that authorized belt haul-  
17          age entries to be used to ventilate active work-  
18          ing places are suspended, and the Secretary  
19          shall instead apply such mandatory safety  
20          standard as it was in effect the day before the  
21          effective date of such amendments, including all  
22          modifications to such standard that had been  
23          approved under subsection (c) prior to such  
24          date and any new modifications that may be ap-  
25          proved in the future pursuant to such section.

1           “(2) SEALS.—Not later than 30 days after the  
2           date of enactment of the Protecting America’s Min-  
3           ers Act, the Secretary shall initiate rulemaking ac-  
4           tivity to modernize and improve mandatory safety  
5           standards relating to seals for abandoned areas in  
6           underground coal mines. As part of such rule-  
7           making, the Secretary shall improve the 20 psi  
8           standard described in section 75.335(a)(2) of title  
9           30, Code of Federal Regulations (as such section  
10          was in effect on the date of enactment of the Pro-  
11          tecting America’s Miners Act). The Secretary shall  
12          give particular consideration to the standards in ef-  
13          fect in other countries in this regard. The Secretary  
14          shall further consider whether the Secretary should  
15          be required to inspect seals during the seals’ con-  
16          struction to ensure that the seals are constructed in  
17          a safe manner. Such improved standards shall be  
18          issued as interim mandatory safety standards not  
19          later than 270 days after the date of enactment of  
20          such Act.”.

21          (b) INSPECTIONS.—Not later than 30 days after the  
22          date of enactment of this Act, the Secretary, in consulta-  
23          tion with the National Institute for Occupational Safety  
24          and Health, shall inspect the seals of all underground coal  
25          mines that are composed of nontraditional materials to en-

1 sure that the seals are constructed in a safe manner, and  
 2 ensure that any seals not constructed in a safe manner,  
 3 regardless of plan approval, shall be promptly recon-  
 4 structed in a safe manner.

5 (c) MANDATORY HEALTH STANDARDS.—Section 101  
 6 of the Federal Mine Safety and Health Act of 1977 (30  
 7 U.S.C. 811) is further amended by adding at the end the  
 8 following:

9 “(h) MANDATORY HEALTH STANDARDS REGARDING  
 10 RESPIRABLE DUST.—

11 “(1) CONCENTRATION LEVELS.—Notwith-  
 12 standing any other requirement of this Act, not later  
 13 than 90 days after the date of enactment of the Pro-  
 14 tecting America’s Miners Act, the Secretary shall  
 15 initiate rulemaking to develop mandatory health  
 16 standards that provide the following:

17 “(A) CONCENTRATION OF DUST.—Each  
 18 operator of a coal or other mine shall continu-  
 19 ously maintain a concentration of respirable  
 20 dust, in the mine atmosphere during each shift  
 21 for which a miner is in any place in a coal or  
 22 other mine where miners are normally required  
 23 to work or travel of such mine, of not more  
 24 than 1.0 milligram of respirable dust per cubic  
 25 meter of air. In meeting this standard, each

1 concentration level shall be considered inde-  
2 pendently and shall not be averaged with other  
3 such levels.

4 “(B) METHOD OF MEASUREMENT.—To  
5 measure the level of respirable dust in an area  
6 of a coal or other mine, samples shall be  
7 taken—

8 “(i) by the Secretary, and not by the  
9 operator; or

10 “(ii) by using personal dust monitors  
11 on not less than 3 miners per shift, in each  
12 working section of the mine and in any  
13 section known to contain the highest dust  
14 concentrations, and not less often than  
15 once a year on each miner who works in  
16 the mine.

17 “(2) INTERIM RULES.—The Secretary shall  
18 issue the rules described under subparagraph (A) as  
19 interim final rules not later than 270 days after the  
20 date of enactment of the Protecting America’s Min-  
21 ers Act.”.

22 (d) DEFINITION.—Section 101 of the Federal Mine  
23 Safety and Health Act of 1977 (30 U.S.C. 811) is further  
24 amended by adding at the end the following:



1       “(i) DEFINITION OF COAL MINE.—In this section,  
2 the term ‘coal mine’ has the meaning given the term in  
3 section 3(h)(2).”.

4       **SEC. 10. TRANSITION TO A NEW GENERATION OF INSPEC-**  
5                               **TORS.**

6       (a) PERSONNEL CEILING TEMPORARILY LIFTED.—  
7 In order to ensure that the Secretary has adequate time  
8 to provide that a sufficient number of qualified and prop-  
9 erly trained inspectors of the Mine Safety and Health Ad-  
10 ministration are in place before any inspectors employed  
11 as of the date of enactment of this Act retire, any ceilings  
12 on the number of personnel that may be employed by the  
13 Administration with respect to mine inspectors are abol-  
14 ished for the 5-year period beginning on the date of enact-  
15 ment of this Act.

16       (b) CONTRACTING WITH RETIRED INSPECTORS.—In  
17 the event that, notwithstanding the actions taken by the  
18 Secretary to hire and train qualified inspectors, the Sec-  
19 retary is temporarily unable, at any time during the 5-  
20 year period beginning on the date of enactment of this  
21 Act, to employ the number of inspectors required to staff  
22 all district offices devoted to coal mines at the offices’  
23 highest historical levels without transferring personnel  
24 from supervisory or plan review activities or diminishing  
25 current inspection resources devoted to other types of

1 mines, the Administration is authorized to hire retired in-  
2 spectors on a contractual basis to conduct mine inspec-  
3 tions, and the retirement benefits of such retired inspec-  
4 tors shall not be reduced as a result of such temporary  
5 contractual employment.

6 (c) COMPLIANCE ASSISTANCE AND USER FEES.—In  
7 order to ensure that the Secretary has sufficient resources  
8 to carry out the enforcement activities of the Mine Safety  
9 and Health Administration, during the 5-year period be-  
10 ginning on the date of enactment of this Act—

11 (1) the Secretary may not expend any funds for  
12 technical support or advice to an operator of a par-  
13 ticular mine, except funds that are collected through  
14 user fees under paragraph (2); and

15 (2) an operator who incurs a civil penalty or  
16 fine under section 110 of the Federal Mine Safety  
17 and Health Act of 1977 (30 U.S.C. 820) shall be as-  
18 sessed a user fee of \$100 for each such penalty or  
19 fine, which fee shall be maintained in a separate ac-  
20 count by the Secretary to be used to provide tech-  
21 nical support or advice to mine operators, with pri-  
22 ority given to requests from mines with less than 20  
23 miners.

24 (d) REPORT TO THE CONGRESS.—During the 5-year  
25 period beginning on the date of enactment of this Act, the

1 Secretary shall issue a special report to the appropriate  
2 committees of Congress every year, or at such more fre-  
3 quent intervals as the Secretary or any such committee  
4 may deem appropriate, providing information about the  
5 actions being taken under this section, the size and train-  
6 ing of the inspector workforce at the Mine Safety and  
7 Health Administration, the level of enforcement activities,  
8 and the number of requests by individual operators of  
9 mines for compliance assistance.

10 **SEC. 11. TECHNOLOGY RESEARCH PRIORITIES.**

11 In implementing its research activities in the 5-year  
12 period beginning on the date of enactment of this Act, the  
13 National Institute for Occupational Safety and Health  
14 shall give due consideration to new technologies, and exist-  
15 ing technologies that could be adapted for use in under-  
16 ground coal or other mines, that could facilitate the sur-  
17 vival of miners in a mining emergency. Such technologies  
18 include—

19 (1) self-contained self-rescue devices capable of  
20 delivering enhanced performance;

21 (2) two-way communications devices capable of  
22 delivering enhanced performance between under-  
23 ground locations or between underground and sur-  
24 face locations, including devices capable of sustained  
25 operation after underground explosions;

1           (3) improved battery capacity and common con-  
2           nection specifications to enable emergency commu-  
3           nication devices for miners to be run from the same  
4           portable power source as a headlamp, continuous  
5           dust monitor, or other device carried by a miner;

6           (4) improved technology for assisting mine res-  
7           cue teams, including devices to enhance vision dur-  
8           ing rescue or recovery operations; and

9           (5) improved technology, and improved proto-  
10          cols for the use of existing technologies, to enable  
11          conditions underground to be assessed promptly and  
12          continuously in emergencies, so as to facilitate the  
13          determination by appropriate officials of the instruc-  
14          tions to provide both to miners trapped underground  
15          and to mine rescue teams and others engaged in res-  
16          cue efforts.

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